IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

WP(C).No. 1804 of 2007(M)

PETITIONER:

P.C.SUBRAN, STENO TYPIST (E.NO.1136),
KERALA MINERALA & METALS LIMITED,
SANKARAMANGALAM, CHAVARA, KOLLAM DISTRICT.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS:

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1. THE KERALA STATE FINANCIAL ENTERPRISES,
   BHADRATHA, MUSEUM ROAD, THRISSUR,
   REPRESENTED BY ITS GENERAL MANAGER.

2. THE BRANCH MANAGER,
   KERALA STATE FINANCIAL ENTERPRISES LTD.,
   ANANDAVALLEESWARAM BRANCH, KOLLAM.

3. THE SPECIAL DEPUTY TAHSILDAR (RR),
   KERALA STATE FINANCIAL ENTERPRISES LTD.,
   KOLLAM.

4. THE GENERAL MANAGER (P&A),
   KMML, SANKARAMANGALAM, CHAVARA,
   KOLLAM.

5. ANEE BABU, NEDIYAVILA VEEDU,
   KANNAMKUZHI, THAMARAKULAM P.O.,
   ALAPPUZHA.

6. SASIDHARAN, VALLIKEEZHU NAGAR,
   HOME NO.89, SAKTHIKULANGARA, KADANADU,
   KOLLAM.

BY ADV. SRI.A.K.JOHN, ADDL.SC., KSFE LTD.
SRI.C.RAJENDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE NOTICE DATED 12.11.2001.

EXT.P2: COPY OF THE CERTIFICATE DATED 15.11.2006.

EXT.P3: COPY OF THE NOTICE DATED DATED 27.1.2006.

EXT.P4: COPY OF THE SALARY DETAILS OF THE PETITIONER.

TRUE COPY

P.A.TO JUDGE

K.BALAKRISHNAN NAIR, J.

WP(C).No.1804 of 2007-M

Dated this the 20th day of February, 2007.

JUDGMENT

The petitioner is a surety for a loan availed by the 5th respondent from the second respondent. Alleging that Rs.87,500/- has been recovered from him between 2001 and 2007, this writ petition is filed.

2. I heard the learned counsel for the respondents also.

3. It is not in dispute that the petitioner is a surety. The liability of the 5th respondent has not been so far cleared. So long as the liability is not cleared, there is nothing wrong in recovering the amount from the salary of the petitioner. But, the same can be made only under the provisions of Section 60 of the Code of Civil Procedure and Section 80 of the Kerala Revenue Recovery Act. So, before making further recovery, the third respondent shall verify whether recovery from the petitioner is made in violation of the above-mentioned provisions. If it is found in favour of the petitioner, further recovery shall be appropriately modified or stopped as the case may be. The 5th respondent being the principal loanee, recovery against him shall be continued, to recover maximum possible amount from

him.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
JUDGE.

MS